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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/942,296	08/29/2001	Margo N. Whale	10007167-1	6662

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HEWLETT-PACKARD COMPANY  
Intellectual Property Administration  
P.O. Box 272400  
Fort Collins, CO 80527-2400

EXAMINER

KRAMER, JAMES A

ART UNIT	PAPER NUMBER
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3627

DATE MAILED: 04/09/2003

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Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/942,296

Applicant(s)

WHALE, MARGO N.

Examiner

James A. Kramer

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-27 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-27 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s) \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

**DETAILED ACTION**

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-27 are rejected under 35 U.S.C. 103(a) as being unpatentable over LoBiondo et al. (hereinafter LoBiondo) in view of Eder.

LoBiondo teaches a consumable supplies monitoring and ordering system for reprographic equipment, which includes laser printer toner cartridges. LoBiondo teaches tracking device usage via counters (column 2; lines 55-58). LoBiondo teaches deriving, based on paper sheet usage, toner and ink consumption on the basis of average marking material usage per sheet (column 2; lines 65-68) over a predetermined time period (column 2; lines 63-65). It is interpreted by the Examiner that the “predetermined time period” of LoBiondo could be either a fixed amount of time or a moving average.

LoBiondo teaches detecting a marketing event. In this case the event is a determination by the judgment means that a consumable needs to be reordered (column 4; lines 17-25). LoBiondo also teaches a remote interactive communications system, so that information to and from a remote supplies ordering location can be effected (column 3; lines 15-20). Data to the system includes orders for suppliers, while data from the reorder system can comprise order confirmations, expected delivery dates and shipment confirmations (column 3; lines 29-32).

LoBiondo does not teach:

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- Determining a price for consumable based on usage determined and transmitting the price
- A marketing event that includes a request for a price, receiving a depleted toner cartridge with built in memory or detecting a pre-determined time for sending an unsolicited advertisement.

Eder teaches that an old and well known business practice is to determine a future usage forecast for a product based on past usage (column 3; lines 35-50). Suppliers of a particular product use this forecast (also known as future demand) to determine a price, traditionally purchasing incentives are associated with offering lower prices for larger purchases (column 1; lines 63-64). In other words, it is old and well known to determine a price for a product based on a company's past usage to provide bulk or volume discounts.

Examiner would like to note that it is inherent in the system of LoBiondo that a price is determined in order for the company supplying the consumable to be compensated. Therefore it would have been obvious to a person of ordinary skill in the art at the time the invention was made to utilize the toner cartridge usage data accumulate from the system of LoBiondo and determine a future forecast/demand of toner cartridges. Then use that forecast to determine a price for future products as taught by Eder. One of ordinary skill at the time the invention as made would have been motivated to combine LoBiondo and Eder in order to offer volume or bulk discounts to those companies that use a lot of toner cartridges.

Examiner asserts that is old and well known in for users of toner cartridges, when the supply of toner is exhausted to either order a new cartridge, inquire about the price of a new cartridge or send the old cartridge back to the manufacturer (or a remanufacturer). In addition,

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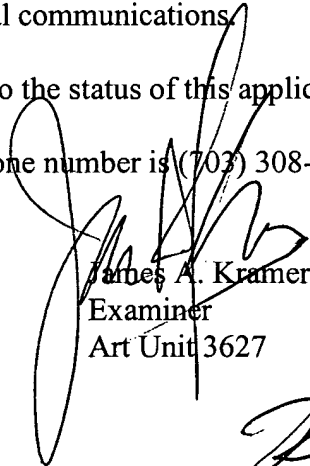
sending unsolicited advertisements is also very old and well known in the art. Examiner notes that all of these marketing events are old and well known and do not individually represent the novelty of Applicant's invention. Additionally, these events generally represent the most effective way for toner cartridge vendors to identify their target audience. Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to incorporate these marketing events with the system taught by LoBiondo in view of Eder in order for companies to identify their target audience.

***Conclusion***


Any inquiry concerning this communication or earlier communications from the examiner should be directed to James A. Kramer whose telephone number is (703) 305-5241. The examiner can normally be reached on Monday - Friday (8AM - 5PM).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Chilcot can be reached on (703) 305-4716. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 308-3687 for regular communications and (703) 872-9327 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.

  
James A. Kramer  
Examiner  
Art Unit 3627

JAK  
March 31, 2003

 4/3/03  
Kenneth R. Rice  
Primary Examiner